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20 JUL 2007

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In re Application of
SCHEIRER et al.
Serial No.: 10/599,322
PCT No.: PCT/IB05/50987
Int. Filing Date: 22 March 2005
Priority Date: 02 April 2004
Atty Docket No.: US040176US
For: INTRACAVITY PROBE WITH
CONTINUOUS SHIELDING OF
ACOUSTIC WINDOW

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is issued in response to applicant's "Petition When Inventor Refuses to Sign" filed 09 July 2007, which is being treated as a Petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Alan Hornberger.

BACKGROUND

On 22 March 2005, applicant filed international application PCT/IB05/50987 which claimed priority to a previous application filed 02 April 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 02 October 2006.

On 25 September 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment; a declaration of inventors; and the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Alan Hornberger. In a decision dated 18 May 2007, applicant's petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 09 July 2007, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

A review of the papers filed 25 September 2006 and 09 July 2007 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Alan Hornberger) refused to execute the application or cannot be located after diligent effort, stated the last known address of the non-signing inventor (Alan Hornberger), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted under 37 CFR 1.47(a) without the signatures of joint inventor Alan Hornberger.

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at the last known addresses set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 25 September 2006.



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